

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 202, "Foster Care Placement and Services," Iowa Administrative Code.

At the request of the State Ombudsman's Office, the Department is clarifying the conditions under which the Department may decline to release the location of a foster child to the child's parents. This amendment requires evidence of a direct or indirect threat to harm the foster child or the foster parent or credible third-party information of a threat of harm to the foster child or the foster parent. The evidence must be documented in the child's case permanency plan. Any decision not to disclose the location of the foster child must be reviewed at least every six months when the plan is updated.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on October 5, 2011, as **ARC 9776B**. The Department received four comments on the Notice of Intended Action, two concerning the scope of the amendment, one concerning the frequency of review required in the amendment, and one concerning the format of the amendment.

In response to these comments, the Department has made the following changes to the amendment as published under Notice of Intended Action:

- The parts of the subrule are renumbered so that the second sentence of the published introductory paragraph becomes paragraph "b."
- The catchwords "Placement notification" are added to the subrule.
- In the paragraphs describing the reasons disclosure of the child's placement could be detrimental, "foster family" is substituted for "foster parent" to recognize that a threat of harm to another member of the foster family should be considered as well.

The Department declines to change the rule to require monthly review of the decision. The rule provides six months as the maximum interval, and the parents may request review at their discretion. The Department has reviewed other rules and does not find that changes need to be made at this time regarding other types of foster care placement.

A complete summary of the comments and the Department's responses is available on the Department's Web site at: <http://www.dhs.iowa.gov/policyanalysis/RulesPages/phcomm.htm>.

The Council on Human Services adopted this amendment on December 14, 2011.

The Department finds that this amendment confers a benefit on parents of children in foster care by clarifying the conditions to which they are subject. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of this amendment is waived.

This amendment does not provide for waivers in specified situations since the decision not to disclose a foster child's location is based on the Department's judgment of the safety of the child and the foster family.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment became effective on December 15, 2011.

This amendment is intended to implement Iowa Code section 234.6.

The following amendment is adopted.

Amend subrule 202.12(2) as follows:

**202.12(2) Placement notification.**

a. The parents shall be notified of the location and nature of the child's placement, unless it is documented in the child's case record that to do so would be disruptive to the placement the conditions of this subrule are met.

(1) The department evaluates the situation and determines that notifying the child's parents of the location of the placement would be detrimental to the child's safety and well-being and to the stability of the child's placement due to:

1. Evidence of a direct or indirect threat to harm the foster child or the foster family; or
2. Credible third-party information of a threat of harm to the foster child or the foster family.

(2) The department includes a statement in the child's case permanency plan explaining the decision not to disclose the location of the child to the parents.

b. The decision not to disclose the location of a child's placement shall be reviewed at least every six months when the child's case permanency plan is revised.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/11/12.